

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Raphael Mendez,

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**
Civil 14-4792 ADM/BRT

Mary Haugen, Unit Manager; and All Unknown
other at Federal Medical Center (FMC)
Rochester Minnesota 55903,

Defendants.

Raphael Mendez, *pro se*.

Ana H. Voss, Assistant United States Attorney, United States Attorney's Office, Minneapolis, MN, on behalf of Defendants.

This matter is before the undersigned United States District Judge for consideration of Raphael Mendez's ("Mendez") Objection [Docket No. 33] to Magistrate Judge Becky R. Thorson's August 18, 2015 Report and Recommendation [Docket No. 32] ("R&R"). Judge Thorson recommends that defendant Mary Haugen's ("Haugen") Motion to Dismiss [Docket No. 15] be granted and Mendez's Amended Complaint [Docket No. 8] be dismissed.

The complete background in this case is provided in Judge Thorson's R&R and is incorporated by reference. Briefly, Mendez, a pretrial detainee, alleges that his Thirteenth Amendment right was violated when he was threatened with administrative segregation if he did not perform assigned cleaning duties at the Federal Medical Center in Rochester, Minnesota. Am. Compl. 2-3; Attach. 1 at 3-4, 7-8. Mendez claims that Haugen threatened him with administrative segregation if he refused to work as a Rest Room Cleaner assigned to the inmate

restrooms in his housing unit. Id. Heeding Haugen's alleged threat, Mendez worked as a restroom cleaner on weekday evenings for fifteen dollars per month. Id. Attach. 1 at 4. Mendez claims this amounts to a violation of the Thirteenth Amendment's prohibition against involuntary servitude, a violation Mendez claims entitles him to millions of dollars in damages. Id. at 3.

The R&R recommends dismissing the case because Mendez has failed to plead a plausible cause of action. Mendez timely objected to the R&R, arguing that Judge Thorson failed to account for his signing of a refusal to work form and that his claim against Haugen remains actionable under Martinez v. Turner, 977 F.2d 421 (8th Cir. 1992).

Mendez's objection is without merit. As Judge Thorson correctly noted, being assigned general housekeeping duties is not protected by the Thirteenth Amendment. See Martinez, 977 F.2d at 423 ("Requiring a pretrial detainee to work or be placed in administrative segregation is punishment. Requiring a pretrial detainee to perform general housekeeping chores, on the other hand, is not.") (citations omitted).

Mendez's objection with respect to his refusal to work form is also without merit. The form Mendez signed does not exempt him from performing general housekeeping duties. It states that it is "Bureau of Prisons policy [that] a pretrial inmate may not be compelled to work other than to perform housekeeping tasks in the inmate's own cell and in the community living area." Am. Compl. Attach 1 at 8 (emphasis added). By signing the form, Mendez merely revoked his earlier decision to "volunteer for a work assignment which entails more than housekeeping tasks." Id. Contrary to Mendez's assertion, the refusal to work form does not excuse Mendez from general housekeeping duties. As a pretrial detainee, Mendez can be

directed to perform general housekeeping duties, including those at communal areas beyond the confines of his cell. Martinez, 977 F.2d at 423. Judge Thorson's R&R correctly concluded that Mendez has failed to state a plausible claim.

Based upon the foregoing, and all the files, records, and proceedings herein, **IT IS
HEREBY ORDERED** that:

1. Raphael Mendez's Objection [Docket No. 33] to Magistrate Judge Becky R. Thorson's August 18, 2015 Report and Recommendation [Docket No. 32] is **OVERRULED**;
2. The Report and Recommendation is **ADOPTED**;
3. Defendant Mary Haugen's Motion to Dismiss [Docket No. 15] is **GRANTED**;
4. The Amended Complaint [Docket No. 8] is **DISMISSED**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

BY THE COURT:

s/Ann D. Montgomery
ANN D. MONTGOMERY
U.S. DISTRICT JUDGE

Dated: September 29, 2015.